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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 1st July 2005

No. 5479—li/1(B)-16/2001-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 1st June 2005 in Industrial Disputes Case No. 53 of 2001 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial disputes between the Executive Engineer, Division-III, Mahanadi-Chitrotpala Island Irrigation-II, Manijanga, Jagatsinghpur and its workman Shri Bilash Kumar Sahoo was referred for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 53 OF 2001

Dated the 1st June 2005

Present :

Shri P. K. Sahoo, O.S.J.S. (Jr. Branch)
Presiding Officer, Labour Court
Bhubaneswar

Between :

The Executive Engineer Division-III, Mahanadi Chitrotpala Island Irrigation-II, Manijanga, Dist. Jagatsinghpur And	.. First Party—Management
Shri Bilash Kumar Sahoo C/o. General Secretary All Orissa Irrigation Workers Union Manijanga, Jagatsinghpur	.. Second Party—Workman

Appearances :

For First Party–Management	..	None
For Second Party Workman himself	..	Shri Bilash Kumar Sahoo

AWARD

The State Government in exercise of powers conferred by sub-section (5) of Section 12, read with clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 have referred the matter in dispute to this Court in the Labour & Employment Department Memo. No. 15382(5)-L. E., dated the 2nd November 2001 for adjudication and Award.

2. The terms of the reference may briefly be stated as follows :—

“ Whether the action of the Executive Engineer, Division-III, Manijanga by terminating the services of Shri Bilash Kumar Sahoo, Daily Rated workman with effect from the 31st January 2000 is legal and/or justified ? If not, to what relief he is entitled ?”

3. The brief facts giving rise to the present reference is that workman Shri Bilash Kumar Sahoo was engaged under the management of Executive Engineer, Division-III, Manijanga (in short the management) on D. L. R. basis with effect from the 1st November 1991. He continued to work as such till the 30th June 1996. Thereafter he worked as N. M. R. under the management with effect from the 1st July 1996 till the date of his termination on the 31st January 2000. According to the workman, although he had rendered continuous service for the above period with much sincerity, devotion and to the utmost satisfaction of the authority, but the management without any rhyme or reason terminated him from service with effect from the 31st January 2000 without giving any notice or notice pay nor retrenchment compensation as contemplated under Section 25-F of the Industrial Disputes Act, 1947 (in short the Act). The above backgrounds the workman seeks industrial adjudication praying for reinstatement in service with back wages along with other service benefits. Hence, the reference.

4. The management, on the other hand, filed its written statements opposing the claim of the workman. Subsequently the management did not contest the case as a result, it was set *ex parte*. The *ex parte* hearing commenced on the 16th February 2005.

5. The workman during *ex parte* hearing has examined himself as W. W. 1 and has relied upon the xerox copies of the documents such as, the details of his engagement with effect from the 1st November 1991 till the 31st January 2000, the certificate, office order, dated the 6th March 1995, representation, letter of the Junior Engineer addressed to the

Assistant Engineer, Mahanadi-Chitrotpala Island, Irrigation Subdivision No. 1, Manijanga, representation and the letter of the General Secretary, All Orissa Irrigation Workers Union, Mahanadi-Chitrotpala Branch, Manijanga, dated the 1st July 2000 marked as Exts. 1 to 7 respectively.

6. During *ex parte* evidence the workman has categorically stated that he was engaged on D. L. R. basis under the management with effect from the 1st November 1991. He continued to work as such till the 30th June 1996. He thereafter worked under the management as N. M. R. with effect from the 1st July 1996 and continued to work till the date of his termination on the 31st January 2000. In his evidence he has further stated that the management without any rhyme or reason illegally terminated his service without giving any notice or notice pay and retrenchment compensation. In course of his evidence he has duly proved all the documents already relied upon by him marked as Exts. 1 to 7 respectively. The evidence of the workman in this respect has nowhere been challenged by the management during evidence. In absence of any rebuttal evidence absolutely I find no cogent reason to disbelieve the same. Rather the evidence of the workman leads me to arrive at a just conclusion that the workman had rendered continuous uninterrupted service with effect from the 1st November 1991 till the date of his termination on the 31st January 2000 and the management while terminating his services had not given any notice or notice pay and retrenchment compensation, which in my view, are in complete violation of the mandatory provisions of Section 25-F of the Act. Law is well settled that the provisions of Section 25-F of the Act is mandatory and any violation thereof will render the retrenchment void *ab initio*. In the case at hand, it is crystal clear that the workman had rendered continuous service with effect from the 1st November 1991 till the date of his termination on the 31st January 2000 and the management without any rhyme or reason had illegally terminated him from service without following the mandate of Section 25-F of the Act. On a close scrutiny of the evidence already led by the workman being coupled with the documentary evidence already relied upon by him, I am of the considered view that the action of the management in terminating the services of the workman was illegal, unjustified and against the mandate of Section 25-F of the Act. In that view of the matter, the workman is entitled to the relief of reinstatement.

7. The schedule of the reference clearly goes to show that the workman has been terminated from service with effect from the 31st January 2000 and there is no material on record to prove and establish that he has been gainfully employed elsewhere with effect from the date of his termination. In such premises, the workman is entitled to be reinstated in service but on the facts and circumstances of the present case as the workman had not worked with effect from the date of his termination. He is entitled to compensation towards back wages a lump sum amount to the tune of Rs. 2,000 which in my opinion, would meet the ends of justice in the instant case.

8. Hence it is ordered :

ORDER

That the action of the Executive Engineer, Division-III, Manijanga by terminating the services of Shri Bilash Kumar Sahoo, Daily Rated workman with effect from the 31st January 2000 is neither legal nor justified. The workman, Shri Sahoo is entitled to be reinstated in service with a lump sum compensation of Rs. 2,000 (Rupees two thousand) only towards back wages.

The reference is thus answered accordingly *ex parte*.

Dictated and corrected by me.

P. K. SAHOO
1-6-2005
Presiding Officer
Labour Court
Bhubaneswar

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1-6-2005
Presiding Officer
Labour Court
Bhubaneswar

By order of the Governor
D. MISHRA
Under-Secretary to Government